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1 contentions in this case. I will then tell you what each
2 side must prove to win on each of its contentions.

3 3Com seeks money damages from Realtek for
4 allegedly infringing the 3Com patents by making,
5 importing, selling, and offering for sale certain network
6 interface adapters that 3Com argues are covered by claim
7 1 of the '459 patent, claims 10 and 21 of the '872
8 patent, claims 28 and 47 of the '094 patent and/or claim
9 1 of the '884 patent. These claims may be referred to as
10 the "asserted claims." 3Com also argues that Realtek has
11 actively induced infringement of the asserted claims by
12 others and contributed to the infringement of these
13 claims.

14 The Realtek products that are alleged to
15 infringe the 3Com patents will be referred to as the
16 "accused Realtek products." Realtek's accused products
17 can be organized into five product groups: I, II, III, IV
18 and V.

19 3Com alleges that product groups I, II and III
20 infringe claim 1 of the '459 patent, that all of the
21 accused products infringe claims 10 and 21 of the '872
22 patent, that product groups I and II infringe claims 28
23 and 47 of the '094 patent and that product groups III, IV
24 and V infringe claim 1 of the '884 patent.

25 Realtek denies that it has infringed any of the
26 asserted claims of the 3Com patents and argues that, in
27 addition, all of the asserted claims are invalid.

28 It has already been determined in other
proceedings that product groups I, II and III infringe
claim 1 of the '459 patent, that all of the accused
Realtek products infringe Claim 21 of the '872 patent and
that product groups I and II infringe claim 28 of the
'094 patent. You need not, therefore, consider the issue
of infringement with respect to those products and
claims. You will, however, have to consider Realtek's
contentions that these claims are invalid.

The previous determination of infringement of
certain claims does not indicate an opinion of the court
as to the issues that you are to decide and it should not
in any way affect your consideration of those issues.

Your job will be to decide whether any or all
of the accused Realtek products infringe claim 10 of the
'872 patent, whether product group I or product group II
infringe claim 47 of the '094 patent and whether product
groups III, IV or V infringe claim 1 of the '884 patent.
In addition, you will need to decide whether any of the
asserted claims are invalid.

1 If you decide that any asserted claim is not
2 invalid and either (1) you decide that such claim has
3 been infringed or (2) it has already been determined in
4 other proceedings that such claim was infringed, you will
5 then need to decide any money damages to be awarded to
6 3Com to compensate it for the infringement. You will
7 also need to make a finding whether the infringement was
8 willful. If you decide that any infringement was
9 willful, that decision should not affect any damage award
10 you give. I will take willfulness into account in later
11 proceedings.

12 IT IS SO ORDERED.



13 VAUGHN R WALKER
14 United States District Chief Judge